

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF MARION     )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO: 16839-AG18-0122-007

IN THE MATTER OF:       )

Joshua L. Johnson       )  
6806 South 25 East       )  
Pendleton, Indiana 46064   )

Respondent.               )

License Number: 2878760   )

Type of Agency Action: Enforcement   )

**FILED**

NOV 09 2018

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On September 20, 2018, the Administrative Law Judge, Reuben B. Hill, filed his Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended Order on Respondent by mailing the same to his counsel of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order, and more than eighteen (18) days have elapsed.

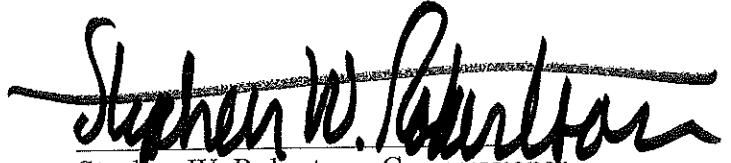
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent's resident producer's license #2878760 is permanently revoked.

Under Ind. Code §4-21.5-5-5, Respondent has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS ORDERED by the Commissioner this 9 day of November, 2018.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Joshua Johnson  
c/o Jimmy McDole, Counsel for Respondent  
403 W. 8<sup>th</sup> Street, Suite 3  
Anderson, IN 46016

Erica Dobbs, Attorney  
Indiana Department of Insurance  
311 W. Washington St., Suite 103  
Indianapolis, IN 46204

Reuben B. Hill  
Administrative Law Judge

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**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER**

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Administrative Law Judge Reuben B. Hill ("ALJ"), having heard, reviewed and considered all of the evidence, will now render a decision concerning the matter of Joshua L. Johnson ("Respondent"). This matter came on to be heard by the ALJ on May 23, 2018 at 10:00 a.m. at the Indiana Department of Insurance at 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Erica J. Dobbs. Applicant appeared in person and by counsel Jimmy L. McDole, Jr. Testimony was heard, and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the ALJ now makes the following Findings of Fact, Conclusions of Law, and issues the Recommended Order.

### **FINDINGS OF FACT**

1. Respondent has been a Licensed Resident Insurance Producer since July 16, 1998.
2. On December 5, 2017, Respondent was terminated for cause from American Family Insurance Company ("American Family"). American Family notified the Department of said termination on December 28, 2017 by letter stating that the termination was due to Respondent's recent felony conviction". (Department's Exhibit 1)
3. Investigation by the Department revealed that Respondent was charged in Madison County, Indiana, on July 13, 2017, with Aiding, Inducing, or Causing Dealing in Cocaine, a Level 2 Felony, and Possession of Cocaine, a Level 4 Felony. (Department's Exhibit 2)
4. Respondent's Initial Hearing for the charges was held on August 7, 2017. (Department's Exhibit 4)
5. Respondent testified he personally appeared for the Initial Hearing and was informed of the charges against him.
6. Respondent ultimately pleaded guilty to both charges. Sentencing was stayed, and Respondent was ordered to successfully complete the Madison County Drug Court Treatment Program. Respondent completed the program and the charges were dismissed on February 28, 2018. (Department's Exhibit 4)
7. Respondent did not notify the Department of the criminal prosecution initiated against him in 2017.

8. While investigating the 2017 charges against Respondent, the Department discovered that a charge of Public Intoxication, a Class B Misdemeanor, had been filed against Respondent in Allen County, Indiana, on August 1, 2014. (Department's Exhibit 5)
9. Respondent's Initial Hearing was held on August 1, 2014. Respondent ultimately entered a Pretrial Diversion Agreement and the charge was dismissed on August 14, 2015. (Department's Exhibit 7)
10. Respondent did not notify the Department of the criminal prosecution initiated against him in 2014.
11. Respondent filed for renewal of his license in February, 2015, while he was on Pretrial Diversion in Allen County, and answered "no" to the question that asks "Have you been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor, which has not been previously reported to the Department"? (Department's Exhibit 8)
12. Respondent testified that he did not know he was required to report criminal charges to the Department if they did not result in a conviction.
13. Respondent further testified that he did not disclose the pending Public Intoxication charges on his 2015 renewal application because he rushed through the application, answering "no" after seeing "been convicted" at the start of the question.
14. Respondent submitted five (5) exhibits at the hearing. Respondent's A-C pertain to the dismissal of the Madison County charges. Respondent's D-E are character reference letters from friends and colleagues.
15. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

### **CONCLUSIONS OF LAW**

1. The Commissioner of the Indiana Department of Insurance (“Commissioner”) has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
3. Indiana Code 27-1-15.6-12(b) states, in part, that the Commissioner may permanently revoke an Insurance Producer License, due to a number of factors.
4. Specifically, Indiana Code 27-1-15.6-12(b)(2)(A) allows the Commissioner to permanently revoke an Insurance Producer’s License for violating an insurance law.
5. Indiana Code 27-1-15.6-17(b) is an insurance law that states, in part, that not more than thirty (30) days after an initial Pretrial Hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction.
6. Respondent has twice violated this insurance law by failing to notify the Department of charges filed against him in 2014 and 2017. Even when presented with the opportunity to inform the Department of the 2014 charges in his 2015 renewal application, respondent failed to do so.
7. Indiana Code 4-21.5-3-14( c ) states that the person requesting an agency take action has the burden of persuasion and the burden of going forward. The Department is requesting that the Commissioner permanently revoke Respondent’s Resident Producer License.
8. The Department has met its burden of showing Respondent violated Indiana Code 27-1-15.6-12(b)(2)(A) and that Respondent’s Resident Producer License should be revoked.

9. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

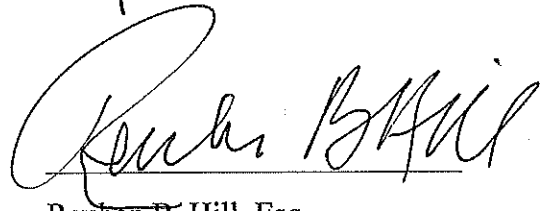
RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED:

In consideration of the foregoing Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the **Commissioner of Insurance** the following:

1. That Respondent's Resident Producer License #2878760 be permanently revoked, effective the date the Final Order is issued.

**ALL OF WHICH IS ADOPTED** by the Administrative Law Judge and recommended to the **Commissioner of Insurance** this 20<sup>th</sup> day of Sept, 2018

A handwritten signature in cursive script, appearing to read "Reuben B. Hill", written over a horizontal line.

Reuben B. Hill, Esq.  
Administrative Law Judge

**Distribution:**

Joshua Johnson  
c/o Jimmy McDole, Counsel for Respondent  
403 W. 8<sup>th</sup> Street, Suite 3  
Anderson, Indiana 46016

Erica J. Dobbs, Attorney  
Indiana Department of Insurance  
311 W. Washington St., Suite 103  
Indianapolis, Indiana 46204

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**STATEMENT OF CHARGES**

The Enforcement Division of the Indiana Department of Insurance ("Department"), by counsel, Erica J. Dobbs, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5 *et seq.*, files its Statement of Charges against Joshua L. Johnson ("Respondent"), as follows:

**FACTS**

1. Respondent is a licensed resident insurance producer, holding license number 2878760 since July 16, 1998.
2. On January 2, 2018, the Department was notified by American Family Mutual Insurance Company ("American Family") that Respondent had been terminated for cause effective December 5, 2017.
3. According to American Family, Respondent had a felony conviction.
4. A review of public records revealed that Respondent was charged with Aiding, Inducing, or Causing Dealing in Cocaine, a Level 2 Felony, and Possession of Cocaine, a Level 4 Felony, on July 13, 2017 in Madison County Circuit Court 3.

5. Respondent's initial pretrial hearing was held on August 7, 2017, where Respondent appeared in person and was informed of the charges against him.
6. Respondent did not notify the Department of the charges, and the Department remained unaware of the charges until American Family provided notification of his termination.
7. In reviewing public records seeking information for the 2017 case, it was also discovered that Respondent was charged with Public Intoxication on August 1, 2014 in Allen County Superior Court 6.
8. Respondent's initial pretrial hearing in that matter was held on August 1, 2014, where Respondent appeared in person and was informed of the charges against him.
9. Respondent did not notify the Department of the charges, and the Department remained unaware until investigating Respondent's criminal history upon learning of his termination from American Family.

## **CHARGES**

### **COUNT I**

1. Averments 1 through 6 are incorporated fully herein by reference.
2. Indiana Code § 27-1-15.6-12(b) states the Commissioner of the Indiana Department of Insurance ("Commissioner") may permanently revoke an insurance producer license, due to a number of causes.
3. Specifically, Indiana Code § 27-1-15.6-12(b)(2)(A) states the Commissioner may permanently revoke an insurance producer license for violating an insurance law.
4. Respondent's conduct, as alleged herein, violates Indiana Code § 27-1-15.6-17(b), an insurance law that requires, in part, that not more than thirty (30) days after an initial

pretrial hearing date, an insurance producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction.

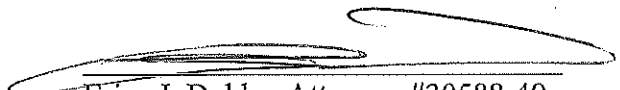
**COUNT II**

1. Averments 1 through 2 and 7 through 9 are incorporated fully herein by reference.
2. Indiana Code § 27-1-15.6-12(b) states the Commissioner may permanently revoke an insurance producer license, due to a number of causes.
3. Specifically, Indiana Code § 27-1-15.6-12(b)(2)(A) states the Commissioner may permanently revoke an insurance producer license for violating an insurance law.
4. Respondent's conduct, as alleged herein, violates Indiana Code § 27-1-15.6-17(b), an insurance law that requires, in part, that not more than thirty (30) days after an initial pretrial hearing date, an insurance producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction.

**WHEREFORE**, the Enforcement Division of the Indiana Department of Insurance, by counsel, Erica J. Dobbs, requests that the Commissioner set this matter for a hearing pursuant to Indiana Code § 4-21.5 *et seq.*, and:

- (1) Issue an order permanently revoking Respondent's insurance producer license;  
and
- (2) Grant all other relief just and proper in the premises.
- (3)

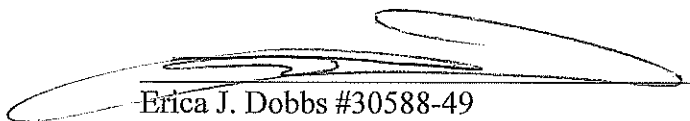
Respectfully submitted,

  
Erica J. Dobbs, Attorney #30588-49  
Attorney, Enforcement Division

Indiana Department of Insurance  
Enforcement Division  
311 West Washington Street, Suite 103  
Indianapolis, Indiana 46204-2787  
Telephone: (317) 234-5887  
Facsimile: (317) 232-5251

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served upon the Respondent c/o Jimmy McDole at the address listed below, by United States first class mail, postage prepaid, this 5<sup>th</sup> day of April, 2018.

  
Erica J. Dobbs #30588-49

Distribution:

Erica Dobbs, Attorney  
Indiana Department of Insurance  
311 W Washington Street Suite 103  
Indianapolis, IN 46204

Jimmy L McDole, Jr., Attorney  
403 West 8<sup>th</sup> Street  
Suite 3  
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